

BEFORE THE  
POSTAL REGULATORY COMMISSION  
WASHINGTON, D.C. 20268-0001

MAIL PROCESSING NETWORK RATIONALIZATION  
SERVICE CHANGES, 2011

Docket No. N2012-1

**UNITED STATES POSTAL SERVICE NOTICE OF FILING LIBRARY REFERENCE  
USPS-LR-N2012-1/NP26 AND APPLICATION FOR NON-PUBLIC STATUS  
(May 16, 2012)**

In accordance with Rule 31(b)(2), the United States Postal Service provides notice today that it files the following Category 4 **nonpublic** Library Reference:

**USPS-LR-N2012-1/NP26                      Materials Responsive to APWU/USPS-21(a)  
and APWU/USPS-22(a)**

The preface page included with the library reference describes its contents in more detail.

Further, in accordance with 39 C.F.R. § 3007.21, the United States Postal Service hereby submits the attached application for non-public treatment of library reference USPS-LR-N2012-1/NP26, filed today in this proceeding. This nonpublic Library Reference includes commercially sensitive service performance data for competitive products, and, accordingly, is submitted as part of the nonpublic annex in this proceeding.

Pursuant to 39 C.F.R. § 3001.31(b)(ii) and (iii), the Postal Service files this library reference as part of its response to APWU/USPS-21 and APWU/USPS-22. This library reference is not an update of or revision to another library reference.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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**UNITED STATES POSTAL SERVICE APPLICATION FOR  
NONPUBLIC TREATMENT OF LIBRARY REFERENCE  
USPS-LR-N2012-1/NP26**

In accordance with 39 C.F.R. § 3007.21 and Order No. 225,<sup>1</sup> the United States Postal Service (Postal Service) applies for nonpublic treatment of certain data filed under seal with the Commission. The Postal Service is transmitting this nonpublic material to the Postal Regulatory Commission (Commission) in response to APWU/USPS-21, issued on March 29, 2012. The Postal Service hereby furnishes the justification required for this application by 39 C.F.R. § 3007.21(c) below.

The materials covered by this application consist of service performance and business sensitive data for competitive products – Priority Mail and Express Mail.

By operation of 39 U.S.C. § 410(c)(2), information of a commercial nature, which under good business practice would not be publicly disclosed, is not required to be disclosed to the public. The Commission may determine the appropriate level of confidentiality to be afforded to such information after weighing the nature and extent of the likely commercial injury to the Postal Service against the public interest in maintaining the financial transparency of a government establishment competing in commercial markets. 39 U.S.C. § 504(g)(3)(A). Because the requested information filed non-publicly in this docket falls within the scope of information not required to be disclosed publicly, the Postal Service asks the Commission to support its determination that these materials are exempt from public disclosure and grant its application for their non-public treatment.

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<sup>1</sup> PRC Order No. 225, Final Rules Establishing Appropriate Confidentiality Procedures, PRC Docket No. RM2008-1, June 19, 2009.

**(1) The rationale for claiming that the materials are nonpublic, including the specific statutory basis for the claim, and a statement justifying application of the provision(s);**

The data designated as nonpublic consist of performance information for Express Mail and Priority Mail, which are classified as competitive products within Shipping Services. As competitive products, the Postal Service believes that any information regarding these products is classified as proprietary information and restricted.

Based on its long-standing and deep familiarity with postal and communications business and markets generally, and its knowledge of many firms, including competitors, the Postal Service does not believe that any commercial enterprise would voluntarily publish data reflecting the service performance of such products. In the Postal Service's view, this information would be exempt from mandatory disclosure pursuant to 39 U.S.C. § 410(c)(2) and 5 U.S.C. § 552(b)(3) and (4).<sup>2</sup>

**(2) Identification, including name, phone number, and email address for any third-party who is known to have a proprietary interest in the materials, or if such an identification is sensitive, contact information for a Postal Service employee who shall provide notice to that third party;**

None.

**(3) A description of the materials claimed to be nonpublic in a manner that, without revealing the materials at issue, would allow a person to thoroughly evaluate the basis for the claim that they are nonpublic;**

The nonpublic materials include information concerning competitive product

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<sup>2</sup> In appropriate circumstances, the Commission may determine the appropriate level of confidentiality to be afforded to such information after weighing the nature and extent of the likely commercial injury to the Postal Service against the public interest in maintaining the financial transparency of a government establishment competing in commercial markets. 39 U.S.C. § 504(g)(3)(A). The Commission has indicated that "likely commercial injury" should be construed broadly to encompass other types of injury, such as harms to privacy, deliberative process, or law enforcement interests. PRC Order No. 194, Second Notice of Proposed Rulemaking to Establish a Procedure for According Appropriate Confidentiality, PRC Docket No. RM2008-1, Mar. 20, 2009, at 11.

performance, including the measurement of performance scores for Express Mail and Priority Mail. The Postal Service maintains that the entire document should remain confidential.

**(4) Particular identification of the nature and extent of commercial harm alleged and the likelihood of such harm;**

If the nonpublic materials were to be disclosed publicly, the Postal Service considers that it is quite likely that it would suffer commercial harm. This information is commercially sensitive, and the Postal Service does not believe that it would be disclosed under good business practices.

Information about service performance for competitive products is highly confidential in the express mail industry. If this information were made public, competitors could use the levels of achievement described in (3) above to assess any possible comparative vulnerabilities and to focus sales and marketing efforts on those areas to the detriment of the Postal Service. Further, the Postal Service's competitors would have the advantage of being able to assess the Postal Service's levels of achievement, particularly when setting their own targets and levels of achievement. Competitors could also use the information to advertise and market comparatively their performance, should it exceed that of postal products. Additionally, potential customers could use the information to their advantage in negotiating the terms of agreements with the Postal Service.

Eventually, this could freeze the Postal Service out of the expedited market. The Postal Service considers these to be highly probable outcomes that would result from public disclosure of these non-public materials.

**(5) At least one specific hypothetical, illustrative example of each alleged harm;**

**Harm:** Public disclosure of performance metrics in the nonpublic materials would be used by the Postal Service's competitors.

**Hypothetical:** A competing delivery service obtains a copy of the nonpublic materials from the Postal Regulatory Commission's website. The competitor analyzes the performance metrics to assess the Postal Service's performance and achievement. The competitor uses that information as a baseline to develop competitive alternatives.

**Harm:** Competitors would use performance metrics to assess vulnerabilities and focus sales and marketing efforts to the detriment of the Postal Service.

**Hypothetical:** The information in the nonpublic materials is released to the public. Another delivery service's employee monitors the filing of this information and passes the information along to its sales and marketing functions. The competitor then uses this information as a concrete comparison point, advertising itself to potential customers as offering performance better than the Postal Service's performance through public advertising, sales visits, and collateral materials furnished to business customers.

**(6) The extent of protection from public disclosure deemed to be necessary;**

The Postal Service maintains that the nonpublic materials should be withheld from persons involved in competitive decision-making in the relevant markets for expedited products (including postal operators and private sector integrators), as well as their consultants and attorneys. Additionally, the Postal Service believes that actual or potential customers of the Postal Service for expedited services, or similar products, should not be provided access to the non-public materials.

**(7) The length of time deemed necessary for the nonpublic materials to be protected from public disclosure with justification thereof; and**

The Commission's regulations provide that nonpublic materials shall lose nonpublic status ten years after the date of filing with the Commission, unless the Commission or its authorized representative enters an order extending the duration of that status. 39 C.F.R. § 3007.30.

**(8) Any other factors or reasons relevant to support the application.**

None.

***Conclusion***

For the foregoing reasons, the Postal Service requests that the Postal Regulatory Commission grant its application for nonpublic treatment of the above-described materials appearing in USPS Library Reference USPS-LR-N2012-1/NP26